IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 15595 of 2004

Between:

M/s. Sri Laxmi Kala Mandir a Partnership firm at Lothukunta, Alwal, R.R. District, Rep. by its Partner P. Dhananjaya S/o. Balaiah, aged 54 Years, R/o. Alwal.

..... PETITIONER

AND

1 Appellate Deputy Commissioner (CT) Hyderabad Rural Division, Hyderabad III Floor, M-4 Building, M.J. Road APHB Nampally, Hyderabad.
2 The Entertainment Officer, Malkajgiri, Hyderabad.
3 The Assistant Commercial Tax Officer, Office of the Entertainment Officer, Malkajgiri, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or direction preferably a Writ in the nature of Writ of Mandamus, declaring the action of the 1st respondent in rejecting the Appeal vide Order dt. 12-3-2004 made in G.I.No.R/35/2000 as being illegal, arbitrary, contrary to the provisions of the A.P. General Sales Tax Act and also violative of Article 14 of the Constitution of India and consequently suspend the said order by directing the 2nd respondent to pass revised assessment year 1999-2000 in respect of the petitioner.

Counsel for the Petitioner:MR.T.SURYA SATISH, Advocate.

Counsel for the Respondents : GP FOR COMMERCIAL TAXES

The Court at admission stage, made the following :

ORDER : (Per Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With their consent the matter is disposed of at this stage.

The appeal was filed before the appellate authority, who has not decided it on merits. Appeal has been disposed of on the ground that deficiencies pointed out, were not made good. The deficiency, which was found by the appellate authority was that a rectification order passed, was not placed before him. On the other hand, the learned Counsel for petitioner submits that there was no rectification order and passing or non-passing of a rectification order was not within the power of the respondents. It is not disputed by the learned Government Pleader.

In these circumstances, we set aside the order of the appellate authority, remand the case back to him with a direction that he shall dispose of the appeal on merits without insisting on production of any rectification order, which is not in existence. He may decide the appeal within a period of two months from the date of receipt of a copy of this order.

Writ Petition is accordingly disposed of. No costs.

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(BILAL NAZKI, J)

1st September, 2004.

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(S.ANANDA REDDY, J)

ajr

To

1 Appellate Deputy Commissioner (CT) Hyderabad Rural Division,

Hyderabad, III Floor, M-4 Building, M.J. Road APHB Nampally,

Hyderabad.
2 The Entertainment Officer, Malkajgiri, Hyderabad.
3 The Assistant Commercial Tax Officer, Office of the

Entertainment Officer, Malkajgiri, Hyderabad.

4 Two C.Cs. to the GP for Commercial Taxes, High Court buildings,

Hyderabad (O.U.T)

5 Two C.D. copies.